

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 07-11700

DARRYL R. MILLER,
and CITY OF OAK PARK
ASSESSOR,

HONORABLE AVERN COHN

Defendants.

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ORDER DENYING DEFENDANT'S MOTION FOR RECONSIDERATION

I.

This is a federal tax case. The government is seeking to collect unpaid income taxes for the years 1984-1989, 1996, 2003, and 2005 from defendant Darryl R. Miler (Miller), proceeding pro se. The government has recorded tax liens attached to real property owned by Miller in Oak Park, Michigan (the Oak Park property). In this action, the government seeks to foreclose on the tax liens on the Oak Park property. The government joined the City of Oak Park Assessor because it may claim an interest in the Oak Park property. The government then filed a motion for leave to file an amended complaint adding Ruth R. Miller, defendant's mother, as a party. The Court granted the motion on the grounds that the government recently learned that Ruth Miller appears in the chain of title, and as such she is a necessary party because she may claim an interest in the Oak Park property.

Before the Court is defendant's motion for reconsideration. For the reasons that

follow, the motion is DENIED.

II.

E.D. Mich LR 7.1(g) governs motions for reconsideration, providing in relevant part:

Generally, and without restricting the court's discretion, the court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court, either expressly or by implication. The movant must not only demonstrate a palpable defect by which the court and the parties have been misled but also show that correcting the defect will result in a different disposition of the case.

A "palpable defect" is a defect which is obvious, clear, unmistakable, manifest or plain. Marketing Displays, Inc. v. Traffic Devices, Inc., 971 F. Supp. 262, 278 (E.D. Mich. 1997)(citing Webster's New World Dictionary 974 (3rd ed. 1988)).

Defendant fails to satisfy this standard. Defendant does not specifically challenge the addition of Ruth R. Miller as a party but rather contends that the entire lawsuit is frivolous because it was brought against a defendant (Darryl Miller) who has no interest in the property. That is not grounds for reconsideration of the motion to amend.

Dated: November 17, 2008

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to Darryl R. Miller P O Box 37094, Oak Park, MI 48237-0094 and the attorneys of record on this date, November 17, 2008, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160